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LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
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November 3, 2016

Captain Steven Katz
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: Officer Involved Shooting of Hector Puga
J.S.I.D. File #15-0125
L.A.S.D. File #015-02293-0371-055

Dear Captain Katz:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 13, 2015, non-fatal shooting of Hector Puga by Deputies Javier Estrella, Alan Rojas, and Samuel Gomez of the Los Angeles County Sheriff's Department. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

JAMES GARRISON
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy Javier Estrella, #[redacted]
Deputy Alan Rojas, #[redacted]
Deputy Samuel Gomez, #[redacted]

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MEMORANDUM

TO: CAPTAIN STEVEN KATZ
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Hector Puga
J.S.I.D. File #15-0125
L.A.S.D. File #015-02293-0371-055

DATE: November 3, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 13, 2015, non-fatal shooting of Hector Puga by Los Angeles County Sheriff's Department (LASD) Deputies Javier Estrella, Alan Rojas, and Samuel Gomez. It is our conclusion that Deputies Estrella, Rojas, and Gomez acted in lawful self-defense and defense of others at the time each fired his weapon.

The District Attorney's Command Center was notified of this shooting on March 13, 2015, at approximately 7:50 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by Los Angeles County Sheriff's Department Lieutenant [redacted]

The following analysis is based on reports, recorded interviews, DVD recordings, and photographs submitted to this office by the LASD – Homicide Bureau. No compelled statements were considered in this analysis.

FACTUAL ANALYSIS

On March 13, 2015 at approximately 5:00 p.m., LASD Deputies Javier Estrella and Alan Rojas were working in the area of 99th Street and Budlong Avenue in the City of Los Angeles. Both deputies were dressed in LASD uniform and traveling in a marked black and white police vehicle. Rojas was the driver and Estrella was seated in the right front passenger seat.

As Estrella and Rojas proceeded east on 99th Street approaching Budlong Avenue, both deputies saw a white Chevy Tahoe SUV driving eastbound. Both deputies were aware that a similarly described vehicle was associated with a recent kidnapping in the Lakewood area and that the suspect in that kidnapping was armed with a firearm. The deputies ran the plate of the SUV, which returned that the vehicle was a felony armed and dangerous wanted vehicle.

At this time, the driver of the SUV, later identified as Hector Puga, stopped and exited the driver's side. Rojas got out of the police vehicle, drew his service weapon, and ordered Puga to "Get on the ground!"[1] Puga responded, "Fuck you!" Puga entered the SUV and drove eastbound on 99th Street, away from the deputies. Rojas got back into the patrol vehicle and the deputies began to follow Puga with their vehicle's lights and siren activated.

Puga led the deputies on a 25 minute pursuit through the streets of Los Angeles. While fleeing the deputies, Puga drove at excessive speeds, failed to stop for posted stop signs, failed to stop at red lights, collided with another vehicle, drove in the opposite lane of traffic, nearly hit a skateboarder traveling in a crosswalk, and generally drove in a manner that was dangerous to other vehicles on the road and to pedestrian traffic. LASD deputies followed in patrol vehicles with their lights and sirens activated and an LASD airship arrived and called the pursuit from above.[2]

Deputies Samuel Gomez and Mark Reyes were one of the units that joined in the pursuit. Gomez and Reyes were dressed in LASD uniform and following Estrella and Rojas in a marked black and white police vehicle. Gomez and Reyes were aware that Puga was wanted for an armed and dangerous kidnapping based on the radio traffic.

Puga continued to flee from the deputies. He circled the area of 43rd Street and Vermont Avenue and ultimately stopped his SUV facing east on the 900 block of West 43rd Street. As he did so, the LASD airship, which had taken over the pursuit, broadcast to the ground units that they should move in. Estrella and Rojas turned onto 43rd Street and stopped their patrol vehicle facing east approximately 160 feet west of Puga. Gomez and Reyes stopped their patrol car behind Estrella and Rojas' vehicle, offset to the north. Other LASD patrol cars also parked behind or near them and the LASD airship broadcast from above.

Puga exited the SUV, turned to face the deputies, removed a silver handgun from his waistband area, and walked westbound toward the deputies, past the rear bumper of the SUV. Puga pointed the gun in the deputies' direction, briefly pointed the weapon towards the ground, and racked the slide of the gun as if chambering a round. Puga gestured angrily at the deputies while still holding the handgun and then extended his arm, pointed the gun at the deputies, and fired his weapon several times.[3] In response, Estrella, Rojas, and Gomez each fired their duty weapons at Puga.[4] Puga continued to discharge his weapon at the deputies as he retreated toward the front of his vehicle, where he briefly fell to the ground. Puga got up and stumbled to the porch area of a residence located on the south side of West 43rd Street.

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[1] Estrella recalled Rojas' order was "Show me your hands!"

[2] Additionally, the pursuit and the resulting officer involved shooting were recorded by news cameras in helicopters following the pursuit and broadcast on live television.

[3] News footage captured Puga's actions. Smoke emitting from his weapon can be seen as Puga fires. Gomez described the moment as "pretty terrifying."

[4] The deputies collectively fired 37 rounds. Reyes did not fire his duty weapon because other LASD deputies were in his line of fire.

Puga remained on the porch of this house as deputies approached the location using a patrol vehicle as mobile cover. During this time, Puga's firearm was visible and within arms-reach of him. Ultimately, Puga agreed to surrender. He walked onto the street and was arrested without further incident. Paramedics, who had been staging near the location, arrived, treated Puga, and transported him to California Hospital for treatment for two gunshot wounds to the chest. Puga survived his injuries.

Puga was armed with a silver and black colored EKOL Frat Magnum 9mm P.A.K. The pistol is a blank gun. It does not shoot bullets, but resembles a firearm, ejects spent casings like a real firearm, and has a muzzle flash similar to a real firearm. Investigators found five spent casings from Puga's gun near Puga's SUV.

[redacted] Puga's [redacted] was interviewed. [redacted] told investigators that she and her [redacted] were separated. Several days prior, they attended the same party, arriving separately. [redacted] believed that Puga had a gun in his waistband. At some point, Puga became angry and ordered [redacted] to leave with him. [redacted] did not want to go, but was afraid of Puga. [redacted] left with Puga. Puga drove [redacted] around in his SUV for many hours, stopping to eat at several locations and to buy drugs. During this time, Puga repeatedly threatened to kill [redacted] Puga pistol whipped her head and beat her face and body. Eventually, Puga left [redacted] at her home and [redacted] went to the hospital for medical treatment.

[redacted] told investigators that Puga previously said that he was going to kill her, kill himself, kill the police and "go at it" with the cops.

On March 24, 2015, investigators interviewed Puga. Puga denied threatening to kill [redacted] Puga said he and [redacted] were at a party and left to go to the store. After purchasing a bottle of tequila, Puga and [redacted] began to argue over money. They drove to get dinner. While at dinner, a woman at the restaurant recognized Puga, which caused [redacted] to hit Puga and throw soda at him. Puga was still hungry and wanted chicken wings. They drove to Rallys, where Puga ordered chicken wings. [redacted] threw the chicken wings at Puga. Puga, still hungry, went to Del Taco and bought more food. Puga and [redacted] next drove to "Fantasy Castle." [redacted] got angry and again hit Puga. Puga "believed" that he hit her back. Puga denied possessing a gun while at the party.

Puga indicated that on the day of the pursuit, [redacted] called him because she wanted to have sex with him. Puga recalled telling the police to leave him alone, but denied knowing the deputies were pursuing him. Puga admitted to driving dangerously, but said that he was rushing to get to his [redacted] house rather than fleeing from the deputies. Puga drove to [redacted] house and parked.

Puga said he pulled out a fake gun and ultimately admitted pointing the gun at the deputies. Puga explained that he wanted the police to kill him because he had "nothing to live for."

Based upon his actions, Puga was convicted of a violation of Penal Code section 273.5(f)(2), willful infliction of corporal injury to a spouse, and a violation of Penal Code section 69,

obstructing or resisting executing officers in the performance of their duties. He was sentenced to serve seven years in state prison.

CONCLUSION

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight…The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." Graham v. Connor (1989) 490 U.S. 386, 396-397.

Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. People v. Toledo (1948) 85 Cal.App.2d 577.

According to the law in California, a person acted in lawful self-defense or defense of another if (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury; (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger; and (3) he used no more force than was reasonably necessary to defend against that danger. CALCRIM No. 505. The People have the burden of proving beyond a reasonable doubt that a person did not act in lawful self-defense or defense of another. If the People fail to meet this burden, a jury must find the defendant not guilty. CALCRIM No. 3470.

The evidence examined shows that Deputies Estrella and Rojas spotted Puga's SUV, ran the license plate, and confirmed that the car was a wanted armed and dangerous vehicle. When Rojas attempted to detain Puga, Puga entered the SUV and drove away from the deputies. Estrella and Rojas pursued Puga with their lights and siren activated.

Additional deputies joined in the pursuit, as did an LASD Air Unit. Puga continued to flee from the deputies, traveling at excessive speeds, failing to stop for posted stop signs and red lights, colliding with another vehicle, driving in the opposite lane of traffic, nearly hitting a skateboarder crossing the street in a crosswalk, and otherwise driving in a manner that endangered the lives of the occupants of other vehicles and pedestrians. Puga ultimately stopped his SUV on 43rd Street near Vermont Avenue. The deputies parked their patrol vehicles west of Puga's location.

Puga exited the SUV, pulled out what appeared to be a silver handgun, and racked the slide as if chambering a round. Puga pointed the gun at the deputies and appeared to fire five rounds at them. Deputies Estrella, Rojas, and Gomez reasonably believed that Puga's firearm was a real handgun based on the physical likeness to a real firearm and prior information that Puga has committed crimes days earlier while armed with a firearm. Based upon this perceived deadly threat, Estrella, Rojas, and Gomez fired their duty weapons at Puga, wounding him.

We conclude that Deputies Javier Estrella, Alan Rojas, and Samuel Gomez were placed in reasonable fear of death or great bodily injury by Hector Puga's actions and acted lawfully in self-defense and defense of others when they used deadly force. We are therefore closing our file and will take no further action in this matter.